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APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY-DOCKET NO.
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09/656,289 09/06/00 HAKIM

N 4009.016

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QM22/0925

EXAMINER
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MAIL T	
ART UNIT	PAPER NUMBER

3727  
DATE MAILED:

09/25/01

Please find below and/or attached an Office communication concerning this application or proceeding.

Commissioner of Patents and Trademarks

# Office Action Summary

Application No.

09/656,289

Applicant(s)

HAKIM, NOURI E.

Examiner

Tri M. Mai

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-- The MAILING DATE of this communication appears on the cover sheet with the correspond nc address --

## Period for Reply

A SHORTENED STATUTORY PERIOD FOR REPLY IS SET TO EXPIRE 3 MONTH(S) FROM THE MAILING DATE OF THIS COMMUNICATION.

- Extensions of time may be available under the provisions of 37 CFR 1.136(a). In no event, however, may a reply be timely filed after SIX (6) MONTHS from the mailing date of this communication.
- If the period for reply specified above is less than thirty (30) days, a reply within the statutory minimum of thirty (30) days will be considered timely.
- If NO period for reply is specified above, the maximum statutory period will apply and will expire SIX (6) MONTHS from the mailing date of this communication.
- Failure to reply within the set or extended period for reply will, by statute, cause the application to become ABANDONED (35 U.S.C. § 133).
- Any reply received by the Office later than three months after the mailing date of this communication, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

## Status

- 1) ☐ Responsive to communication(s) filed on \_\_\_\_.
- 2a) ☐ This action is FINAL. 2b) ☒ This action is non-final.
- 3) ☐ Since this application is in condition for allowance except for formal matters, prosecution as to the merits is closed in accordance with the practice under *Ex parte Quayle*, 1935 C.D. 11, 453 O.G. 213.

## Disposition of Claims

- 4) ☒ Claim(s) 1-52 is/are pending in the application.
- 4a) Of the above claim(s) 17-50 is/are withdrawn from consideration.
- 5) ☐ Claim(s) \_\_\_\_ is/are allowed.
- 6) ☒ Claim(s) 1-16, 51 and 52 is/are rejected.
- 7) ☐ Claim(s) \_\_\_\_ is/are objected to.
- 8) ☐ Claim(s) \_\_\_\_ are subject to restriction and/or election requirement.

## Application Papers

- 9) ☐ The specification is objected to by the Examiner.
- 10) ☐ The drawing(s) filed on \_\_\_\_ is/are: a) ☐ accepted or b) ☐ objected to by the Examiner.
- Applicant may not request that any objection to the drawing(s) be held in abeyance. See 37 CFR 1.85(a).
- 11) ☐ The proposed drawing correction filed on \_\_\_\_ is: a) ☐ approved b) ☐ disapproved by the Examiner.
- If approved, corrected drawings are required in reply to this Office action.
- 12) ☐ The oath or declaration is objected to by the Examiner.

## Priority under 35 U.S.C. §§ 119 and 120

- 13) ☒ Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).
- a) ☒ All b) ☐ Some \* c) ☐ None of:
1. ☒ Certified copies of the priority documents have been received.
2. ☐ Certified copies of the priority documents have been received in Application No. \_\_\_\_.
3. ☐ Copies of the certified copies of the priority documents have been received in this National Stage application from the International Bureau (PCT Rule 17.2(a)).
- \* See the attached detailed Office action for a list of the certified copies not received.
- 14) ☐ Acknowledgment is made of a claim for domestic priority under 35 U.S.C. § 119(e) (to a provisional application).
- a) ☐ The translation of the foreign language provisional application has been received.
- 15) ☐ Acknowledgment is made of a claim for domestic priority under 35 U.S.C. §§ 120 and/or 121.

## Attachment(s)

- 1) ☒ Notice of References Cited (PTO-892)
- 2) ☐ Notice of Draftsperson's Patent Drawing Review (PTO-948)
- 3) ☐ Information Disclosure Statement(s) (PTO-1449) Paper No(s) \_\_\_\_.
- 4) ☐ Interview Summary (PTO-413) Paper No(s). \_\_\_\_.
- 5) ☐ Notice of Informal Patent Application (PTO-152)
- 6) ☐ Other: \_\_\_\_\_.

### DETAILED ACTION

1. Claims 17-50 are withdrawn from further consideration pursuant to 37 CFR 1.142(b) as being drawn to a nonelected invention, there being no allowable generic or linking claim.

Election was made **without** traverse in Paper No. 8.

#### *Priority*

2. Applicant's claim for priority of applications French Design Patent No. 976, 785, U.S. Design Patent 29/119,049 and US Design Patent 29/088, 360 is acknowledged. However, the applications upon which priority is claimed fails to provide adequate support under 35 U.S.C. 112 for claims 1-15, 51 and 52 of this application. *Inter alias*, these applications fail to disclose a hole at the top of the nipple cover, and the cover member.

#### *Claim Rejections - 35 USC § 112*

3. The following is a quotation of the second paragraph of 35 U.S.C. 112:

The specification shall conclude with one or more claims particularly pointing out and distinctly claiming the subject matter which the applicant regards as his invention.

4. Claims 6, 15 and 16 is rejected under 35 U.S.C. 112, second paragraph, as being indefinite for failing to particularly point out and distinctly claim the subject matter which applicant regards as the invention.

It is confusing what comprises the invention. The claim defines a cover, but the body of the claim positively recites structural elements of nipple. Is the invention a cover or a cover/nipple combination? Applicant is required to state whether a subcombination or a combination is intended, and amend the claim to clarify the matter.

The term "said sealing icon" has no antecedent basis.

***Claim Rejections - 35 USC § 102***

5. The following is a quotation of the appropriate paragraphs of 35 U.S.C. 102 that form the basis for the rejections under this section made in this Office action:

A person shall be entitled to a patent unless –

(b) the invention was patented or described in a printed publication in this or a foreign country or in public use or on sale in this country, more than one year prior to the date of application for patent in the United States.

6. Claims 1-3, 6, 7, 8, 9, and 11-16 are rejected under 35 U.S.C. 102(a) as being anticipated by Pillado (6,092,680). Pillado teaches a cover for a nipple having a sealing element 72.

7. Claims 1-16 are rejected under 35 U.S.C. 102(a) as being anticipated by Shefflin (5,878,898). Shefflin teaches a cover for a nipple having a sealing element 72.

Regarding claim 6, Shefflin teaches a flange in the embodiments of Figs. 2A, and 13.

Regarding claim 10, in the very least, the cap in fig. 16 has a different color than the cover (note the cartoon figure).

8. Claim 51 is rejected under 35 U.S.C. 102(a) as being anticipated by Yagi (D341892). Yagi teaches a baby bottle having at least a handle that is attached to the cap as shown in Fig. 18 and a skirt as shown in Fig. 18.

***Claim Rejections - 35 USC § 103***

9. The following is a quotation of 35 U.S.C. 103(a) which forms the basis for all obviousness rejections set forth in this Office action:

(a) A patent may not be obtained though the invention is not identically disclosed or described as set forth in section 102 of this title, if the differences between the subject matter sought to be patented and the prior art are such that the subject matter as a whole would have been obvious at the time the invention was made to a person having ordinary skill in the art to which said subject matter pertains. Patentability shall not be negated by the manner in which the invention was made.

10. Claim 52 is rejected under 35 U.S.C. 103(a) as being unpatentable over Yagi in view of either Pillado or Shefflin. Yagi meets all claimed limitations except for the sealing element on

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the top. Either Pillado or Shefflin teaches that it is known in the art to provide a sealing element in a top of a baby bottle. It would have been obvious to one of ordinary skill in the art to provide a top having a sealing element in Yagi as taught by either Pillado or Shefflin to provide added protection.

*Conclusion*

11. Various references are cited for showing various containers similar to the disclosed and/or claimed invention.

Any inquiry concerning this communication or earlier communications from the examiner should be directed to Tri M. Mai whose telephone number is (703)308-1038. The examiner can normally be reached on 7:30am-5:00pm.

If attempts to reach the examiner by telephone are unsuccessful, the examiner's supervisor, Allan Shoap can be reached on (703)308-1082. The fax phone numbers for the organization where this application or proceeding is assigned are (703)305-3579 for regular communications and (703)305-3579 for After Final communications.

Any inquiry of a general nature or relating to the status of this application or proceeding should be directed to the receptionist whose telephone number is (703)308-1148.

t.m. T.M.  
September 18, 2001

  
Allan N. Shoap  
Supervisory Patent Examiner  
Group 3700